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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|---|-------------|----------------------|------------------------------|------------------------|
| 10/588,817  | 05/10/2007  | Genshirou Ogawa      | 129038                       | 3989                   |
| 25944   | 7590        | 06/25/2009           |                              |                        |
| OLIFF & BERRIDGE, PLC<br>P.O. BOX 320850<br>ALEXANDRIA, VA 22320-4850 |             |                      | EXAMINER<br>CAMPBELL, THOR S |                        |
|   |             |                      | ART UNIT<br>3742             | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>06/25/2009      | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                       |   |  |
|------------------------------|---------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/588,817  | <b>Applicant(s)</b><br>OGAWA, GENSHIROU |  |
|                              | <b>Examiner</b><br>/Thor S. Campbell/ | <b>Art Unit</b><br>3742                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-24 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/23/08, 2/14/08, 12/19/07, 8/09/06</u> .                     | 6) <input type="checkbox"/> Other: ____.                          |



Art Unit: 3742

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 18 recites the limitation "said accommodating bag". There is insufficient antecedent basis for this limitation in the claim. Dependence on claim 17 is assumed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starkey et al. (US 5254094) or Ogawa (US 4293762) in view of Fukumoto (JP 05-237161)

Starkey or Ogawa generally discloses the claimed invention including *inter alia* an infusion warming method and apparatus comprising providing a heater for heating an accumulator (heat exchange fluid) in the vicinity of a transfusion fluid so as to heat the fluid prior to infusion.

Starkey or Ogawa does not specifically discuss using a phase change medium wherein the latent heat is used to provide the heat.

Art Unit: 3742

Fukumoto discloses heating with a phase change material by using the latent heat of the material when transitioning from liquid phase to solid phase. It would have been obvious to provide the phase change heating means in order to enable use of the device when electric heating is not available.

Starkey or Ogawa in view of Fukumoto discloses the claimed invention except:

In reference to claim 23.

The infusion fluid warming bag according to claim 22, wherein said heat conducting member is provided by a plurality of heat conducting fins each including an end portion connected to said warming surface of said flexible sheet and another end portion separated from the warming surface of the flexible sheet. The use of heat conducting fins is a well established means of increasing the heat conducting efficacy of a heat exchanger and would be an obvious improvement to one of skill having routine creativity and rational ingenuity.

Claims 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starkey et al. (US 5254094) or Ogawa (US 4293762) in view of Fukumoto (JP 05-237161) and Ersek (US 3612059).

Starkey or Ogawa generally discloses the claimed invention except:

In reference to claim 24. The infusion fluid warming bag according to claim 22, wherein said flexible sheet is a composite sheet including metal and resin layers that are superposed on each other. Ersek discloses a flexible sheet comprising metal and resin layers that are superposed on each other. It would be obvious to one of skill to use the sheet material of Ersek in the device of Starkey/Ogawa and Fukumoto in order to better control the heating .

Art Unit: 3742

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Thor S. Campbell/ whose telephone number is 571-272-4776. The examiner can normally be reached on Mon-Fri 5:30AM-2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thor S. Campbell/  
Primary Examiner  
Art Unit 3742

tsc